

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

George R. Cataldo,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1506
Parcel No. 270/01666-008-008

On March 31, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant George Cataldo was represented at hearing by Attorney Douglas A. Fulton, of Brick Gentry Law Firm, West Des Moines, Iowa. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative, and he represented it at hearing. A digital recording of the proceedings was made. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

George R. Cataldo, owner of property located at 1617 NE 51st Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$476,100; representing \$95,100 in land value and \$381,000 in improvement value. Cataldo protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified Cataldo the January 1, 2009, assessment would not change, stating, "insufficient information was provided in support of the protest."

Cataldo then appealed to this Board on the same ground and seeks \$107,600 in relief. Cataldo values the property at \$368,500.

The subject property is a 32,700 square-foot metal, warehouse-style structure with 3824 square feet of office finish. The one-story structure was built in 1970 and is considered to be in below normal condition. The subject property has a quality grade factor of 4-10. The site consists of 1.73 acres and is also improved by 5060 square feet of asphalt paving..

Michael Cataldo, President of EPS Products, testified on behalf of his father, and owner of the subject property, George R. Cataldo. Cataldo testified the subject property was purchased for \$361,000 in 2003. Cataldo presented Exhibit 1, which is the property lease between George Cataldo and Iowa EPS Products. Cataldo pays \$16,500 a month rent for the subject property. He testified that no improvements have been made since the purchase of the property, and he is of the opinion that the 30% increase from the last assessment is too high. The last assessment was \$368,500. In Cataldo's opinion, the market has not increased in this area over the last five years.

The Board of Review submitted a copy of the mortgage for the subject property dated November 2008 for \$625,000. When questioned at the hearing, Cataldo indicated he had no knowledge of the mortgage. We find this exhibit to have no value. The Board of Review otherwise relied on the certified record and did not call any witnesses.

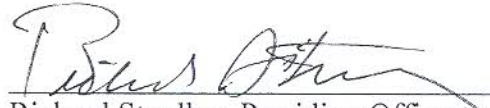
Reviewing all the evidence, we find Cataldo failed to show what the correct value of the property should be. Although a 30% increase in today's market may be large, Cataldo failed to produce evidence to support his position that the prior year's assessment was the fair market value of the subject property or that any other value was correct.

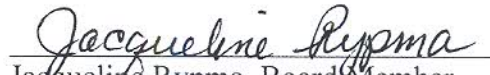
Conclusions of Law

The Appeal Board based its decision on the following law.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment of the property located at 1617 NE 51st Street, Des Moines, Iowa, as set by the Polk County Board of Review, is affirmed.

Dated this 18 day of May 2011.

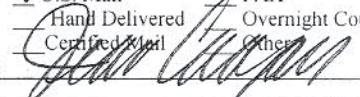

Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-18</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Cataldo did not prove by a preponderance of the evidence that the current assessed value of the property is more than authorized by law as of January 1, 2009.